

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SUSAN ANNE WALL  
P.O. Box 3446  
Dana Point, CA 92629

Registered Nurse License No. 641253

Respondent

Case No. 2012-322

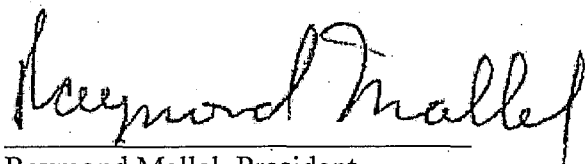
OAH No. 2011120383

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **November 29, 2012.**

IT IS SO ORDERED **October 30, 2012.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS,  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **SUSAN ANNE WALL**  
13 **P.O. Box 3446**  
14 **Dana Point, CA 92629**

15 **Registered Nurse License No. RN 641253**

16 Respondent.

Case No. 2012-322

OAH No. 2011120383

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
22 Registered Nursing. She brought this action solely in her official capacity and is represented in  
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Desiree I.  
24 Kellogg, Deputy Attorney General.

25 2. Respondent Susan Anne Wall (Respondent) is represented in this proceeding by  
26 attorney Ronald Talmo, whose address is: 2415 North Hesperian Street Santa Ana, CA 92706.

27 3. On or about July 26, 2004, the Board of Registered Nursing issued Registered Nurse  
28 License No. RN 641253 to Susan Anne Wall (Respondent). The Registered Nurse License was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 2012-322 and  
2 will expire on July 31, 2014, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2012-322 was filed before the Board of Registered Nursing (Board),  
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
6 and all other statutorily required documents were properly served on Respondent on November  
7 23, 2011. Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2012-322 is attached as exhibit A and incorporated herein  
9 by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Accusation No. 2012-322. Respondent has also carefully read, fully  
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
14 Order.

15 7. Respondent is fully aware of her legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
17 the witnesses against her; the right to present evidence and to testify on her own behalf; the right  
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
19 documents; the right to reconsideration and court review of an adverse decision; and all other  
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22 every right set forth above.

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Accusation  
25 No. 2012-322.

26 10. Respondent agrees that her Registered Nurse License is subject to discipline and she  
27 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.  
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1 distinct condition. If any condition of this Order, or any application thereof, is declared  
2 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
3 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
4 and enforceable to the fullest extent permitted by law.

5 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and  
6 detailed account of any and all violations of law shall be reported by Respondent to the Board in  
7 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with  
8 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within  
9 45 days of the effective date of the decision, unless previously submitted as part of the licensure  
10 application process.

11 **Criminal Court Orders:** If Respondent is under criminal court orders, including  
12 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
13 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

14 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with  
15 the conditions of the Probation Program established by the Board and cooperate with  
16 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
17 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
18 more than 15 days of any address change and shall at all times maintain an active, current license  
19 status with the Board, including during any period of suspension.

20 Upon successful completion of probation, Respondent's license shall be fully restored.

21 3. **Report in Person.** Respondent, during the period of probation, shall appear in  
22 person at interviews/meetings as directed by the Board or its designated representatives.

23 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
24 practice as a registered nurse outside of California shall not apply toward a reduction of this  
25 probation time period. Respondent's probation is tolled, if and when she resides outside of  
26 California. Respondent must provide written notice to the Board within 15 days of any change of  
27 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
28 returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

1           **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
2 prior approval from the Board before commencing or continuing any employment, paid or  
3 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
4 performance evaluations and other employment related reports as a registered nurse upon request  
5 of the Board.

6           Respondent shall provide a copy of this Decision to her employer and immediate  
7 supervisors prior to commencement of any nursing or other health care related employment.

8           In addition to the above, Respondent shall notify the Board in writing within seventy-two  
9 (72) hours after she obtains any nursing or other health care related employment. Respondent  
10 shall notify the Board in writing within seventy-two (72) hours after she is terminated or  
11 separated, regardless of cause, from any nursing, or other health care related employment with a  
12 full explanation of the circumstances surrounding the termination or separation.

13           **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
14 Respondent's level of supervision and/or collaboration before commencing or continuing any  
15 employment as a registered nurse, or education and training that includes patient care.

16           Respondent shall practice only under the direct supervision of a registered nurse in good  
17 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
18 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
19 approved.

20           Respondent's level of supervision and/or collaboration may include, but is not limited to the  
21 following:

22           (a) Maximum - The individual providing supervision and/or collaboration is present in  
23 the patient care area or in any other work setting at all times.

24           (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
25 care unit or in any other work setting at least half the hours Respondent works.

26           (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
27 person communication with Respondent at least twice during each shift worked.

28           (d) Home Health Care - If Respondent is approved to work in the home health care

1 setting, the individual providing supervision and/or collaboration shall have person-to-person  
2 communication with Respondent as required by the Board each work day. Respondent shall  
3 maintain telephone or other telecommunication contact with the individual providing supervision  
4 and/or collaboration as required by the Board during each work day. The individual providing  
5 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
6 patients' homes visited by Respondent with or without Respondent present.

7       **9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
8 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
9 or for an in-house nursing pool.

10       Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
11 registered nursing supervision and other protections for home visits have been approved by the  
12 Board. Respondent shall not work in any other registered nursing occupation where home visits  
13 are required.

14       Respondent shall not work in any health care setting as a supervisor of registered nurses.  
15 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
16 and/or unlicensed assistive personnel on a case-by-case basis.

17       Respondent shall not work as a faculty member in an approved school of nursing or as an  
18 instructor in a Board approved continuing education program.

19       Respondent shall work only on a regularly assigned, identified and predetermined  
20 worksite(s) and shall not work in a float capacity.

21       If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
22 request documentation to determine whether there should be restrictions on the hours of work.

23       **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and  
24 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
25 months prior to the end of her probationary term.

26       Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
27 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
28 above required course(s). The Board shall return the original documents to Respondent after



1 photocopying them for its records.

2       **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its  
3 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
4 amount of \$1,752.50. Respondent shall be permitted to pay these costs in a payment plan  
5 approved by the Board, with payments to be completed no later than three months prior to the end  
6 of the probation term.

7       If Respondent has not complied with this condition during the probationary term, and  
8 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
9 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
10 extension of Respondent's probation period up to one year without further hearing in order to  
11 comply with this condition. During the one year extension, all original conditions of probation  
12 will apply.

13       **12. Violation of Probation.** If Respondent violates the conditions of her probation, the  
14 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
15 and impose the stayed discipline (revocation/suspension) of Respondent's license.

16       If during the period of probation, an accusation or petition to revoke probation has been  
17 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
18 an accusation or petition to revoke probation against Respondent's license, the probationary  
19 period shall automatically be extended and shall not expire until the accusation or petition has  
20 been acted upon by the Board.

21       **13. License Surrender.** During Respondent's term of probation, if she ceases practicing  
22 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
23 Respondent may surrender her license to the Board. The Board reserves the right to evaluate  
24 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
25 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
26 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
27 subject to the conditions of probation.

28       Surrender of Respondent's license shall be considered a disciplinary action and shall

1 become a part of Respondent's license history with the Board. A registered nurse whose license  
2 has been surrendered may petition the Board for reinstatement no sooner than the following  
3 minimum periods from the effective date of the disciplinary decision:

4 (1) Two years for reinstatement of a license that was surrendered for any reason other  
5 than a mental or physical illness; or

6 (2) One year for a license surrendered for a mental or physical illness.

7 14. **Physical Examination.** Within 45 days of the effective date of this Decision,  
8 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician  
9 assistant, who is approved by the Board before the assessment is performed, submit an  
10 assessment of the Respondent's physical condition and capability to perform the duties of a  
11 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
12 medically determined, a recommended treatment program will be instituted and followed by the  
13 Respondent with the physician, nurse practitioner, or physician assistant providing written reports  
14 to the Board on forms provided by the Board.

15 If Respondent is determined to be unable to practice safely as a registered nurse, the  
16 licensed physician, nurse practitioner, or physician assistant making this determination shall  
17 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
18 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
19 immediately cease practice and shall not resume practice until notified by the Board. During this  
20 period of suspension, Respondent shall not engage in any practice for which a license issued by  
21 the Board is required until the Board has notified Respondent that a medical determination  
22 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
23 of this probationary time period.

24 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
25 requirement, Respondent shall immediately cease practice and shall not resume practice until  
26 notified by the Board. This period of suspension will not apply to the reduction of this  
27 probationary time period. The Board may waive or postpone this suspension only if significant,  
28 documented evidence of mitigation is provided. Such evidence must establish good faith efforts

1 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

2 Only one such waiver or extension may be permitted.

3 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

4 Respondent, at her expense, shall successfully complete during the probationary period or shall

5 have successfully completed prior to commencement of probation a Board-approved

6 treatment/rehabilitation program of at least six months duration. As required, reports shall be

7 submitted by the program on forms provided by the Board. If Respondent has not completed a

8 Board-approved treatment/rehabilitation program prior to commencement of probation,

9 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.

10 If a program is not successfully completed within the first nine months of probation, the Board

11 shall consider Respondent in violation of probation.

12 Based on Board recommendation, each week Respondent shall be required to attend at least

13 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,

14 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.

15 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be

16 added. Respondent shall submit dated and signed documentation confirming such attendance to

17 the Board during the entire period of probation. Respondent shall continue with the recovery plan

18 recommended by the treatment/rehabilitation program or a licensed mental health examiner

19 and/or other ongoing recovery groups.

20 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall

21 completely abstain from the possession, injection or consumption by any route of all controlled

22 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same

23 are ordered by a health care professional legally authorized to do so as part of documented

24 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)

25 days, by the prescribing health professional, a report identifying the medication, dosage, the date

26 the medication was prescribed, the Respondent's prognosis, the date the medication will no

27 longer be required, and the effect on the recovery plan, if appropriate.

28 Respondent shall identify for the Board a single physician, nurse practitioner or physician

1 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and  
2 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-  
3 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
4 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances  
5 considered addictive have been prescribed, the report shall identify a program for the time limited  
6 use of any such substances.

7 The Board may require the single coordinating physician, nurse practitioner, or physician  
8 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive  
9 medicine.

10 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a  
11 random, biological fluid testing or a drug screening program which the Board approves. The  
12 length of time and frequency will be subject to approval by the Board. Respondent is responsible  
13 for keeping the Board informed of Respondent's current telephone number at all times.  
14 Respondent shall also ensure that messages may be left at the telephone number when she is not  
15 available and ensure that reports are submitted directly by the testing agency to the Board, as  
16 directed. Any confirmed positive finding shall be reported immediately to the Board by the  
17 program and Respondent shall be considered in violation of probation.

18 In addition, Respondent, at any time during the period of probation, shall fully cooperate  
19 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
20 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
21 hypnotics, dangerous drugs, or other controlled substances.

22 If Respondent has a positive drug screen for any substance not legally authorized and not  
23 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
24 files a petition to revoke probation or an accusation, the Board may suspend Respondent from  
25 practice pending the final decision on the petition to revoke probation or the accusation. This  
26 period of suspension will not apply to the reduction of this probationary time period.

27 If Respondent fails to participate in a random, biological fluid testing or drug screening  
28 program within the specified time frame, Respondent shall immediately cease practice and shall

1 not resume practice until notified by the Board. After taking into account documented evidence  
2 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
3 suspend Respondent from practice pending the final decision on the petition to revoke probation  
4 or the accusation. This period of suspension will not apply to the reduction of this probationary  
5 time period.

6       **18. Mental Health Examination.** Respondent shall, within 45 days of the effective date  
7 of this Decision, have a mental health examination including psychological testing as appropriate  
8 to determine her capability to perform the duties of a registered nurse. The examination will be  
9 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by  
10 the Board. The examining mental health practitioner will submit a written report of that  
11 assessment and recommendations to the Board. All costs are the responsibility of Respondent.  
12 Recommendations for treatment, therapy or counseling made as a result of the mental health  
13 examination will be instituted and followed by Respondent.

14       If Respondent is determined to be unable to practice safely as a registered nurse, the  
15 licensed mental health care practitioner making this determination shall immediately notify the  
16 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
17 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
18 practice and may not resume practice until notified by the Board. During this period of  
19 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
20 is required, until the Board has notified Respondent that a mental health determination permits  
21 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
22 probationary time period.

23       If Respondent fails to have the above assessment submitted to the Board within the 45-day  
24 requirement, Respondent shall immediately cease practice and shall not resume practice until  
25 notified by the Board. This period of suspension will not apply to the reduction of this  
26 probationary time period. The Board may waive or postpone this suspension only if significant,  
27 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
28 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

1 Only one such waiver or extension may be permitted.

2 19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in  
3 an on-going counseling program until such time as the Board releases her from this requirement  
4 and only upon the recommendation of the counselor. Written progress reports from the counselor  
5 will be required at various intervals.

6 ACCEPTANCE

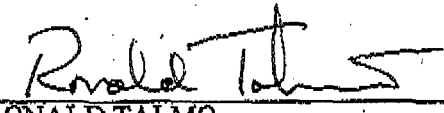
7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
8 discussed it with my attorney, Ronald Talmo. I understand the stipulation and the effect it will  
9 have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary  
10 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
11 of the Board of Registered Nursing.

12  
13 DATED: August 8, 2012

  
14 SUSAN ANNE WALL  
Respondent

15 I have read and fully discussed with Respondent Susan Anne Wall the terms and conditions  
16 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
17 its form and content.

18  
19 DATED: 8-13-12

  
20 RONALD TALMO  
Attorney for Respondent  
21  
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28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated:

8/13/12

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General

  
DESIREE I. KELLOGG  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2012-322**



1 KAMALA D. HARRIS  
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2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
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*Attorneys for Complainant*  
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10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-322**

13 **SUSAN ANNE WALL**  
14 **P.O. Box 3446**  
15 **Dana Point, CA 92629**

**A C C U S A T I O N**

16 **Registered Nurse License No. RN 641253**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about July 26, 2004, the Board of Registered Nursing issued Registered Nurse  
24 License Number RN 641253 to Susan Anne Wall (Respondent). The Registered Nurse License  
25 was in full force and effect at all times relevant to the charges brought herein and will expire on  
26 July 31, 2012, unless renewed.

27 ///

28 ///

## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order  
2 to fix the degree of discipline or to determine if the conviction is substantially related  
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"  
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or  
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the  
following:

9 . . . .

10 (f) Conviction of a felony or of any offense substantially related to the  
11 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof.

12 . . . .

13 10. Section 2762 of the Code states:

14 In addition to other acts constituting unprofessional conduct within the meaning  
15 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
licensed under this chapter to do any of the following:

16 . . . .

17 (b) Use any controlled substance as defined in Division 10 (commencing with  
18 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
19 dangerous or injurious to himself or herself, any other person, or the public or to the  
extent that such use impairs his or her ability to conduct with safety to the public the  
20 practice authorized by his or her license.

21 (c) Be convicted of a criminal offense involving the prescription, consumption,  
or self-administration of any of the substances described in subdivisions (a) and (b) of  
22 this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
23 the conviction is conclusive evidence thereof.

24 . . . .

25 11. Section 2765 of the Code states:

26 A plea or verdict of guilty or a conviction following a plea of nolo contendere  
27 made to a charge substantially related to the qualifications, functions and duties of a  
registered nurse is deemed to be a conviction within the meaning of this article. The  
board may order the license or certificate suspended or revoked, or may decline to  
28 issue a license or certificate, when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

#### REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

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1 COSTS

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 FIRST CAUSE FOR DISCIPLINE

7 (July 21, 2010 Criminal Conviction for DUI With a Prior on May 5, 2010)

8 15. Respondent has subjected her license to disciplinary action under sections 490 and  
9 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially  
10 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
11 follows:

12 a. On or about July 21, 2010, in a criminal proceeding entitled *People of the State*  
13 *of California v. Susan Anne Wall*, in Orange County Superior Court, case number 10HM03571,  
14 Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152,  
15 subdivision (a), driving under the influence of alcohol, a misdemeanor, enhanced pursuant to  
16 Vehicle Code section 23540, in that Respondent committed the same offense within 10 years of  
17 the previous offense. Respondent further admitted and the court found true the allegation that  
18 Respondent was previously convicted of violating Vehicle Code section 23152, subdivision (a) on  
19 November 13, 2001. (See paragraph 19, below.)

20 b. As a result of the conviction, on or about July 21, 2010, Respondent was  
21 granted three years informal probation and sentenced to 45 days in the Orange County Jail, with  
22 credit for eight days. Respondent was further ordered to attend and complete an 18-month  
23 Multiple Offender Alcohol Program and a MADD Victim Impact Panel, pay fees, fines, and  
24 restitution in the amount of \$1,765, and comply with the terms of enhanced DUI probation.

25 c. The facts that led to the conviction are that on or about the evening of May 5,  
26 2010, patrol officers with the Newport Beach Police Department conducted a traffic stop after  
27 they observed Respondent driving in excess of 80 mph, change lanes without signaling, and  
28 straddling the lanes. Upon contact with Respondent, the officer immediately detected the

1 objective symptoms of alcohol intoxication: slurred speech, bloodshot and watery eyes, and the  
2 odor of an alcoholic beverage on her breath. Respondent performed poorly on a series of field  
3 sobriety tests and she was arrested for driving under the influence.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(June 28, 2011 Criminal Conviction for DUI With Two Priors on January 6, 2011)**

6 16. Respondent has subjected her license to disciplinary action under sections 490 and  
7 2761, subdivision (f) of the Code in that Respondent was convicted of crimes that are  
8 substantially related to the qualifications, functions, and duties of a registered nurse. The  
9 circumstances are as follows:

10 a. On or about June 28, 2011, in a criminal proceeding entitled *People of the State*  
11 *of California v. Susan Anne Wall*, in Orange County Superior Court, case number 11HM02465,  
12 Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152,  
13 subdivision (a), driving under the influence of alcohol (Count 1); Vehicle Code section 23152,  
14 subdivision (b), driving with a BAC of .08 percent or more (Count 2); and Vehicle Code section  
15 14601.2, subdivision (a), driving with a license suspended for a DUI conviction (Count 3),  
16 misdemeanors. The convictions were enhanced pursuant to Vehicle Code section 23546, in that  
17 Respondent, within 10 years of the previous offense, committed two separate violations of the  
18 same offense. Respondent further admitted and the court found true the allegation that  
19 Respondent was driving with a license that had been previously suspended for a violation of  
20 Vehicle Code section 23152.

21 b. As a result of the conviction, on or about June 28, 2011, the court stayed  
22 sentence on Count 2 and Respondent was granted five years informal probation. Respondent was  
23 ordered to serve 270 days in the Orange County Jail, with credit for 92 days, stayed pending  
24 completion of 30 days work service with CalTrans, and completion of nine months in a  
25 residential sober living program, including weekly AA meetings. Respondent was ordered to  
26 abstain from the use of alcohol for three years, complete an 18-month Multiple Offender Alcohol  
27 Program, and complete 87 hours of community service in lieu of fines.

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1 c. The facts that led to the conviction are that on or about midnight on January 6,  
2 2011, a patrol deputy with the Orange County Sheriff's Department conducted a traffic stop on  
3 Respondent for an equipment violation. Upon contact with Respondent, the deputy obtained  
4 Respondent's California ID card and learned through a records check that Respondent had two  
5 prior DUI arrests/convictions and that her driver's license had been suspended. The deputy noted  
6 that there was a strong odor of an alcoholic beverage coming from her vehicle and Respondent's  
7 speech was slurred. The deputy had Respondent exit her vehicle; her gait was unsteady, her eyes  
8 were bloodshot and watery, and he could smell the odor of an alcoholic beverage emitting from  
9 her person. Respondent refused to perform field sobriety tests or participate in a preliminary  
10 alcohol screening test. Respondent was arrested for driving under the influence of alcohol.  
11 During booking, Respondent provided a blood sample that subsequently tested with a BAC of .23  
12 percent.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

15 17. Respondent has subjected her registered nurse license to disciplinary action under  
16 section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about May 5,  
17 2010, and January 6, 2011, as described in paragraphs 15 and 16, above, Respondent used  
18 alcoholic beverages to an extent or in a manner that was potentially dangerous and injurious to  
19 herself, and to others in that she operated a motor vehicle with a significantly high blood alcohol  
20 concentration.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offenses)**

23 18. Respondent has subjected her registered nurse license to disciplinary action under  
24 section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about July 21,  
25 2010, and June 28, 2011, as described in paragraphs 15 and 16, above, Respondent was convicted  
26 of criminal offenses involving the consumption and/or self-administration of alcohol.

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